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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,	CR 18-50-BLG-SPW
Plaintiff,	
vs.	OFFER OF PROOF
CHRISTOPHER ALAN ESREY,	
Defendant.	

The United States of America, represented by Assistant United States Attorney Colin M. Rubich, files its offer of proof in anticipation of the change of plea hearing set in this case on July 17, 2018.

THE CHARGE

The defendant, Christopher Alan Esrey, is charged by Indictment with conspiracy to commit robbery affecting commerce, in violation of 18 U.S.C. § 1951(a) (Count I) and robbery affecting commerce, in violation of 18 U.S.C. §§ 1951(a) and 2 (Count II).

PLEA AGREEMENT

There is a plea agreement in this case. Esrey will plead guilty to the Superseding Information, which charges accessory after the fact, in violation of 18 U.S.C. § 3. At the time of sentencing, the United States will move to dismiss the Indictment if the Court accepts the plea agreement. The plea agreement filed with the Court is the most favorable offer extended to the defendant. *See Missouri v. Frye*, 566 U.S. 134 (2012).

ELEMENTS OF THE CHARGE

In order for Esrey to be found guilty of accessory after the fact, in violation of 18 U.S.C. § 3, as charged in the Superseding Information, the United States must prove each of the following elements beyond a reasonable doubt:

First, the crime of robbery affecting commerce had been committed by Antonio Francisco Gutierrez;

Second, the defendant knew that this crime had been committed and that Antonio Francisco Gutierrez had committed it; and

Third, the defendant thereafter intentionally received, comforted, or assisted Antonio Francisco Gutierrez in order to hinder and prevent that person's apprehension, trial, or punishment for the crime of robbery affecting commerce.

PENALTY

The charge in the Superseding Information carries a maximum penalty of ten years imprisonment, a \$125,000 fine, three years of supervised release, and a \$100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

On February 6, 2018, the defendant, Christopher Esrey, drove co-defendant Antonio Gutierrez to Dotty's Casino in Billings. Gutierrez entered the casino, removed a pistol from his pocket, pointed it at the casino attendant, and told her to empty the till. Gutierrez took the money, got back into Esrey's car, and Esrey drove away. Eventually, Esrey and Gutierrez were located at another casino in Billings, where they were arrested. Officers found a Springfield Armory pistol in Gutierrez's jacket pocket and large amounts of small bills on both of them.

The owner of Dotty's Casino advised agents that the casino was required to close for business on the evening of the robbery for over two hours. Dotty's Casino sells several brands of products that are not manufactured in the State of

Montana. Some of the gaming machines in the casino are manufactured in Nevada.

Esrey was aware that Gutierrez had robbed Dotty's Casino and aided him after the fact. Esrey drove Gutierrez away from the robbery. Esrey received stolen money from the robbery from Gutierrez. Finally, when questioned by the police, Esrey falsely stated that had not taken Gutierrez to Dotty's Casino that night and that he and Gutierrez had only visited Lucky Lil's and the Gold Dust Casino together. Esrey made this false statement in an attempt to conceal the crime and Gutierrez from punishment.

DATED this 16th day of July, 2018.

KURT G. ALME
United States Attorney

/s/ Colin M. Rubich
COLIN M. RUBICH
Assistant U.S. Attorney